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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE UNITED STATES, for the use and benefit of CONSTRUCTION TESTING & ENGINEERING, INC., a California corporation, Use- Plaintiff, v. GRAY CONSTRUCTION, INC.,dba JAMES N. GRAY COMPANY, a Kentucky corporation,; TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a Connecticut corporation and DOES 1 through 10, inclusive, Defendants.	Case No. C 07-02419 JL **STIPULATION AND REQUEST FOR DISMISSAL WITH PREJUDICE** Magistrate Judge: James Larson

Use-Plaintiff CONSTRUCTION TESTING & ENGINEERING, INC. respectfully requests by and through counsel-of-record that the Complaint in the above-captioned matter before the United States District Court, Northern District of California, be dismissed with prejudice.

USE-PLAINTIFF CONSTRUCTION TESTING & ENGINEERING, INC. informs the Court that the Complaint was filed on May 4, 2007, and immediately served upon Defendants authorized agents on May 22, 2007. USE-PLAINTIFF filed a Certificate of Service with the Court evidencing service upon Defendant on June 7, 2007. After service of the Summons and Complaint, USE-PLAINTIFF and DEFENDANTS engaged in prolonged settlement discussions, and on July 1, 2007, the parties entered into a formal settlement of this

dispute. Defendants have not filed an appearance in this matter.

Use-Plaintiff CONSTRUCTION TESTING & ENGINEERING, INC. respectfully requests that the Complaint in the above-captioned matter dismissed with prejudice.

Dated: July 2, 2007

BRAUN & MELUCCI, LLP

By:

William J. Braun, Esq.
Attorney for Use-Plaintiff
CONSTRUCTION TESTING & ENGINEERING, INC.

PROOF OF SERVICE VIA ELECTRONIC FILING
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE UNITED STATES, for the use and benefit of CONSTRUCTION TESTING & ENGINEERING, INC. v. GRAY CONSTRUCTION, INC., JAMES N. GRAY COMPANY, etc., et al.

Case No: C 07-02419 JL

I am employed in the County of San Diego, California. I am over the age of eighteen (18) years and not a party to the case. My business address is 7855 Ivanhoe Avenue, Suite 400, La Jolla, California 92037.

I served the foregoing document(s) described as **STIPULATION AND REQUEST FOR DISMISSAL WITH PREJUDICE** on designated recipients through electronic transmission through the Pacer system. Upon completion of said transmission of said documents, a certified receipt is issued to the filing party acknowledging receipt by Pacer's system. Once Pacer has served all designated recipients, proof of electronic services is returned to the filing party.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 3, 2007, at La Jolla, California.

/s/ Kathi Rizzo
Kathi Rizzo

PROOF OF SERVICE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE UNITED STATES, for the use and benefit of CONSTRUCTION TESTING & ENGINEERING, INC. v. GRAY CONSTRUCTION, INC., JAMES N. GRAY COMPANY, etc., et al.

Case No: C 07-02419 JL

I am employed in the County of San Diego, California. I am over the age of eighteen (18) years and not a party to the case. My business address is 7855 Ivanhoe Ave, Suite 400, La Jolla, CA 92037.

On July 3, 2007, I served the foregoing document(s) described as **STIPULATION AND REQUEST FOR DISMISSAL WITH PREJUDICE** on all interested parties in this action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

Jennifer D. Bechtold, Esq.
DIEPENBROCK HARRISON
400 Capital Mall, Suite 1800
Sacramento, California 95814
Tel: (916) 492-5000

I am "readily familiar" with the firm's practice of facsimile, collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid at La Jolla, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XX (**By U.S. Mail**) I placed such envelope(s) with postage thereon fully prepaid in the United States Mail at La Jolla, California.

_____ (**By Overnight Mail**) I placed such envelope with Federal Express for next-day delivery on addressee(s).

_____ (**By Fax**) I transmitted by facsimile such document from La Jolla, California, facsimile number (858) 456-9726 to the addressee(s) as noted above. The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2005(I), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

_____ (**Personal**) I personally delivered the documents to the persons identified on the Proof of Service.

XX (**State**) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 3, 2007, at San Diego, California.

Kathi Rizzo